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PATRICK E. DUFFY
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

WILLIAM E. BUCKLEY,)	CV 06-41-H-DWM-RKS
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
DR. EVANS; REBECCA HALEN; CATHY)	
REDFERN; MYRON BEESON; and)	
MICHAEL MAHONEY,)	
)	
Defendants.)	
)	

United States Magistrate Judge Keith Strong entered Findings and Recommendation in this matter on July 9, 2007. Plaintiff Buckley timely objected and is accordingly entitled to de novo review of the record. 28 U.S.C. § 636(b)(1). Brown is a pro se state prisoner proceeding under 42 U.S.C. § 1983. The parties are familiar with the procedural and factual background so they will not be recited.

The Court agrees with Judge Strong's Findings and Recommendation. Buckley's complaint and his "clarification" do not meet the burden set forth in 28 U.S.C. §§ 1915(e)(2),

1915A(b) and 42 U.S.C. § 1997e(c)(1). Specifically, Buckley's allegations do not meet the criteria to establish a culpable mental state as required for Eighth Amendment medical care claims by prisoners. Buckley's disagreement with Dr. Evans over the proper course of treatment for his diabetes condition does not suffice under pertinent case law. *Lolli v. Orange County*, 351 F.3d 410, 419 (9th Cir. 2003) (it requires that the defendant "knows of and disregards an excessive risk to inmate health and safety") (citation omitted). The facts and law in this regard lead the Court to conclude that Buckley's pleadings fail to state a claim on which relief may be granted.

Additionally, the claims against the remaining Defendants, Halen, Redfern, Beeson, and Mahoney, fail because there is no basis for a § 1983 claim for their alleged failure to respond to his grievances. Prisoners do not have a "legitimate claim of entitlement" to grievance procedures; therefore, these Defendants have not infringed upon Buckley's protectable rights. *Mann v. Adams*, 855 F.2d 639, 640 (9th Cir. 1988).

The Court acknowledges Buckley's objections and his debilitated state, but they do not form a legal basis to rule otherwise.

Based on the foregoing, I adopt Judge Strong's Findings and Recommendation (dkt #15) in full.

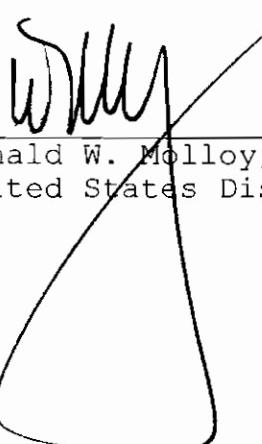
Accordingly, IT IS HEREBY ORDERED that Plaintiff's Complaint is DISMISSED WITH PREJUDICE;

IT IS FURTHER ORDERED that the filing of this action counts

as one strike for failure to state a claim pursuant to 28 U.S.C. § 1915(g); and

IT IS FURTHER ORDERED that pursuant to Rule 24(a)(4)(b), Federal Rules Appellate Procedure, the Court CERTIFIES that any appeal from its disposition is not taken in good faith.

DATED this 14 day of August, 2007.


Donald W. Molloy, Chief Judge
United States District Court